

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6579**

**BILL NUMBER:** HB 1266

**DATE PREPARED:** Dec 20, 2001

**BILL AMENDED:**

**SUBJECT:** Age Discrimination.

**FISCAL ANALYST:** John Parkey

**PHONE NUMBER:** 232-9854

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill transfers jurisdiction over age discrimination proceedings from the Commissioner of Labor to the Civil Rights Commission. This bill establishes that certain actions by an employer, a labor organization, or an employment agency relating to employment are unlawful when the actions involve an individual at least 40 years of age. It provides for exemptions:

- (1) for actions where age is a bona fide occupational qualification;
- (2) for pension and benefit plans;
- (3) for a bona fide seniority system;
- (4) for discipline or discharge for good cause;
- (5) for public safety officers; and
- (6) for bona fide executive or high policy making positions.

The bill provides that all duties performed by an employee or agent employed by the Commission shall be performed in the public interest. The bill repeals age discrimination provisions administered by the Commissioner of Labor.

**Effective Date:** July 1, 2002.

**Explanation of State Expenditures:** *Department of Labor:* This bill transfers jurisdiction over age discrimination proceedings from the Department of Labor to the Indiana Civil Rights Commission. The Department of Labor reports that the majority of age discrimination cases are filed at the federal level. Generally, it is estimated that fewer than ten cases of age discrimination are filed with the state each year. In CY 2001, two cases were filed with Department. While the transfer may cause a slight reduction in the administrative workload of the Department of Labor, it is not expected to decrease the Department's personnel costs.

*Civil Rights Commission:* Transferring the jurisdiction over age discrimination proceedings from the Department of Labor to the Civil Rights Commission could cause an increase in the number of age discrimination cases filed at the state level. One reason for an increase is that the Commission would be able to offer more reparations than the Department of Labor. If the Commissioner of the Department of Labor finds that an employer has discriminated against an employee because of the employee's age, the only redress available to the Commissioner is to issue a finding of fact. The Civil Rights Commission, on the other hand, can fully investigate discrimination claims, award back wages, and institute administrative changes within an offending entity.

Based on data from the Equal Employment Opportunity Commission from CY 1995 to CY 2000, approximately 1,000 charges were filed by Indiana residents each year alleging age discrimination under the federal Age Discrimination in Employment Act. It is not known whether persons choosing to file at the federal level would instead choose to file at the state level if the jurisdiction is changed.

The Civil Rights Commission reports that transferring the jurisdiction over age discrimination cases from the Department will not require the hiring of additional staff. However, the bill is expected to increase the Commission's administrative costs. The extent of these costs will depend on the number of cases initiated at the Commission.

Any funds and resources required for the above could be supplied through a variety of sources, including: (1) existing resources not currently being used to capacity; (2) funds that, otherwise, would be reverted; or (3) new appropriations. As of December 17, 2001, there were eight personnel vacancies within the Commission, including one attorney and three civil rights specialists. The Commission reverted \$18,464 in FY 2001. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. The bill does not contain an appropriation.

**Explanation of State Revenues:** The federal government may reimburse the state for some age discrimination cases pursued by the Indiana Civil Rights Commission.

**Explanation of Local Expenditures:** The above provision would affect local civil rights entities if the changes in the law encourage complainants to file at the state level as opposed to the local level. Currently, a complainant may file with a local civil rights commission, with the state, or at the federal level.

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Civil Right Commission; Department of Labor.

**Local Agencies Affected:** Local Civil Rights Commissions.

**Information Sources:** David Pardo, Indiana Civil Rights Commission; Pete Rimsans, Indiana Department of Labor; U.S. Equal Employment Opportunity Commission, Reports Library.